

Act of 1958, 15 U.S.C. 661, *et seq.*, are affiliates of one another when directly or indirectly one concern controls or has the power to control the other or third parties (or party) control or have the power to control both. Control can be exercised through common ownership, common management, and contractual relationships. The term "affiliates" is defined in greater detail in 13 CFR 121.401(a) through (m). The term "number of employees" is defined in 13 CFR 121.407. Business concerns include, but are not limited to, any individual, partnership, corporation, joint venture, association, or cooperative.

(2) Is at least 51 percent owned, or in the case of a publicly owned business at least 51 percent of its voting stock is owned, by United States citizens or lawfully admitted permanent resident aliens.

Socially and economically disadvantaged individual is a member of any of the following groups: Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, other groups designated from time to time by the Small Business Administration (SBA) to be socially disadvantaged, or any other individual found to be socially and economically disadvantaged by the SBA pursuant to section 8(a) of the Small Business Act, 15 U.S.C. 637(a).

Socially and economically disadvantaged small business concern is one that is:

- (1) At least 51 percent owned by
 - (i) An Indian tribe or a native Hawaiian organization, or
 - (ii) One or more socially and economically disadvantaged individuals; and
- (2) Whose management and daily business operations are controlled by one or more socially and economically disadvantaged individuals.

Subcontract is any agreement, other than one involving an employer-employee relationship, entered into by a Federal Government funding agreement awardee requesting supplies or services required solely for the performance of the funding agreement.

United States means the fifty States, the territories and possessions of the United States, the Commonwealth of

Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia.

Women-owned small business concern means a small business concern that is at least 51 percent owned by a woman or women who also control and operate it. "Control" as used in this context means exercising the power to make policy decisions. "Operate" as used in this context means being actively involved in the day-to-day management of the concern.

§ 3403.3 Eligibility requirements.

(a) *Eligibility of organization.* (1) Each organization submitting a proposal must qualify as a small business concern for research purposes, as defined in § 3403.2. Joint ventures and limited partnerships are eligible to apply for and to receive research grants under this program, provided that the entity created qualifies as a small business concern in accordance with section 2(3) of the Small Business Act (15 U.S.C. 632) and as defined in § 3403.2. For both phase I and phase II the research must be performed in the United States.

(2) A minimum of two-thirds of the research or analytical work, as determined by budget expenditures, must be performed by the proposing organization under phase I grants. For phase II awards, a minimum of one-half of the research or analytical effort must be conducted by the proposing organization. The space used by the SBIR awardee to conduct the research must be space over which it has exclusive control for the period of the grant.

(b) *Eligibility of principal investigator.*

(1) It is strongly suggested that the individual responsible for the scientific or technical direction of the project be designated as the principal investigator. In addition, the primary employment of the principal investigator must be with the proposing small business concern at the time of award and during the conduct of the proposed research. Primary employment means that more than one-half of the principal investigator's time is spent in the employ of the small business concern. Primary employment with the small business applicant precludes full-time employment with another organization.

(2) If the proposed principal investigator is employed by another organization (e.g., university or another company) at the time of submission of the application, documentation must be submitted with the proposal from the principal investigator's current employer verifying that, in the event of an SBIR award, he/she will become a less-than half-time employee of such organization and will remain so for the duration of the SBIR project.

Subpart B—Program Description

§ 3403.4 Three-phase program.

The Small Business Innovation Research Grants Program will be carried out in three separate phases described in this section. The first two phases are designed to assist USDA in meeting its research and development objectives and will be supported with SBIR funds. The purpose of the third phase is to pursue the commercial applications or objectives of the research carried out in phases I and II through the use of private or Federal non-SBIR funds.

(a) Phase I is the initial stage in which the scientific and technical merit and feasibility of an idea related to one of the research areas described in the program solicitation is evaluated, normally for a period not to exceed 6 months. In special cases, however, where a proposed research project requires more than 6 months to complete, a longer grant period may be considered. A proposer of a phase I project with an anticipated duration beyond 6 months should specify the length and duration in the proposal at the time of its submission to USDA in order for it to be considered at the time of award. (See §3403.14(c) for changes in project period subsequent to award).

(b) Phase II is the principal research or research and development effort in which the results from Phase I are expanded upon and further pursued, normally for a period not to exceed 24 months. Only those small businesses previously receiving phase I awards are eligible to submit phase II proposals. For each phase I project funded the awardee may apply for a phase II award only once. Phase I awardees who for valid reasons cannot apply for phase II

support in the next fiscal year funding cycle may apply for support not later than the second fiscal year funding cycle.

(c) Phase III is to stimulate technological innovation and the national return on investment from research through the pursuit of commercial objectives resulting from the work supported by SBIR funding carried out in phases I and II. This portion of the project is performed by the small business concern and privately funded or Federally funded by a non-SBIR source through the use of a follow-on funding commitment. A follow-on funding commitment is an agreement between the small business concern and a provider of follow-on capital for a specified amount of funds to be made available to the small business concern for further development of their effort upon achieving certain mutually agreed upon technical objectives during phase II.

Subpart C—Preparation and Submission of Proposals

§ 3403.5 Requests for proposals.

(a) *Phase I.* A program solicitation requesting phase I proposals will be prepared each fiscal year in which funds are made available for this purpose. The solicitation will contain information sufficient to enable eligible applicants to prepare grant proposals and will include descriptions of specific research topic areas which the Department will support during the fiscal year involved, forms to be completed and submitted with proposals, and special requirements. A notice will be published in the FEDERAL REGISTER informing the public of the availability of the program solicitation.

(b) *Phase II.* For each fiscal year in which funds are made available for this purpose, the Department will send a letter requesting phase II proposals from the phase I grantees eligible to apply for phase II funding in that fiscal year. The letter will be accompanied by the solicitation which contains information sufficient to enable eligible applicants to prepare grant proposals and includes forms to be submitted with proposals as well as special requirements.